

Remarks

Reconsideration is respectfully requested. Claims 1-11 are pending. Claims 1 and 8 are amended. Claims 2-5 and 11 are canceled, and claims 18-23 are added. Therefore, upon entry of this amendment, claims 1, 6-10 and 18-23 will be pending.

Priority Claim

In the Responses filed on December 10, 2008, and June 5, 2009, Applicants requested entry of the Preliminary Amendment filed on August 14, 2007, and correction of the priority claim. Specifically, the priority claim was amended to indicate that the present application "is the U.S. National Stage of International Application No. PCT/US03/34844, filed October 31, 2003 (published in English under PCT Article 21(2)), which in turn claims the benefit of U.S. Provisional Application No. 60/423,119, filed November 1, 2002, and is a continuation-in-part of U.S. Patent Application No. 10/685,125 filed October 13, 2003, which is a continuation-in-part of copending U.S. Patent Application No. 10/326,549, filed December 19, 2002, which is a continuation of U.S. Patent Application No. 09/785,695, filed February 16, 2001, and which is a continuation-in-part of and claims priority from PCT Application No. PCT/US02/04468, filed February 15, 2002, each of which is incorporated herein by reference."

The initial priority claim had noted that the application claimed priority to PCT Application No. PCT/US02/04468, but had omitted the relationship between the present application and the PCT application. To date, Applicants have not received an updated Filing Receipt with the corrected priority claim. Applicants also note that the PAIR database does not reflect the corrected priority claim. Applicants respectfully request entry of the Preliminary Amendment and correction of the priority claim.

35 U.S.C. § 102(b)

Claim 11 is rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Stone (U.S. Patent No. 6,432,929). Claim 11 is canceled, rendering this rejection moot.

35 U.S.C. §§ 102(a)/103(a)

Claims 1-11 are rejected under 35 U.S.C. § 102(a) as allegedly being anticipated by or, in

the alternative, under 35 U.S.C. § 103(a) as obvious over Stone (U.S. Patent No. 6,432,929). Applicants disagree and request reconsideration.

Amended claim 1 recites a method for making a beverage comprising "providing a beverage; providing an amount of glucosamine (GLCN); mixing the beverage and GLCN, thereby forming a GLCN beverage; and subsequently heat-pasteurizing the GLCN beverage by heating the GLCN beverage to a temperature of at least 165°F and maintaining the temperature for about 3 minutes, wherein GLCN is present in the beverage during the heat pasteurization." Support for the amendment is found in specification, *e.g.*, at page 6, lines 17-23.

Stone discloses a method for preparing a beverage comprising glucosamine wherein the glucosamine is added *after* heat pasteurization. Stone's method comprises preparing, pasteurizing, and cooling a drink base. (Col. 7, ll. 59-64.) Separately, a cartilage supplement solution is prepared "at temperatures below those used in a heat pasteurization process, preferably but not necessarily, at ambient temperatures or lower." (Col. 8, ll. 1-6.) The drink base and cartilage solution are then combined "at ambient temperatures or as low as 35°F." (Col. 8, ll. 6-8.) Stone discloses another embodiment in which a cartilage supplement is added to the drink base "preferably but not necessarily, at temperatures below those used in a heat pasteurization process." (Col. 8, ll. 19-21.) However, Stone further discloses that "*the total residence time of the cartilage solution at elevated temperatures is minimal*, thereby minimizing any heat inactivation of the cartilage supplement." (Col. 8, ll. 42-45.) Stone does not teach or suggest adding glucosamine to a beverage before pasteurization and then subsequently heat pasteurizing the glucosamine-containing beverage by heating the beverage to a temperature of at least about 165°F and maintaining the temperature for about 3 minutes, as required by claim 1. Thus, claim 1 is not anticipated by Stone.

Furthermore, claim 1 is not obvious in view of Stone. In fact, Stone teaches away from the method of claim 1. In contrast to claim 1, Stone adds the cartilage solution *after* heat pasteurization and discloses allowing "the cartilage solution to mix into the product at temperatures below pasteurization temperature and *as the beverage solution is cooling continuously* in transit." (Col. 8, ll. 36-39, emphasis added.) Stone also discloses minimizing the residence time of the cartilage solution at elevated temperatures to minimize any heat inactivation of the cartilage supplement, and discloses, for example, that "the total residence time

of glucosamine near pasteurization temperatures may be *only about 30 seconds while undergoing continuous cooling.*" (Col. 8, ll. 43-55, emphasis added.) Thus, Stone clearly teaches away from adding glucosamine to a beverage and then subsequently heating the glucosamine-containing beverage to the pasteurization temperature and *maintaining the pasteurization temperature for about 3 minutes.*

Accordingly, claim 1 is neither anticipated by, nor obvious in view of, Stone. Applicants respectfully request withdrawal of the rejection under 35 U.S.C. §§ 102(a)/103(a). Claim 6-10 depend from claim 1 and are allowable for at least the same reasons as claim 1.

New Claims 18-23

Claim 18 is similar to claim 1, but recites that heat pasteurization is performed by heating the GLCN beverage "to a temperature of at least about 212°F and maintaining the temperature for at least 60 seconds, wherein GLCN is present in the beverage during the heat pasteurization." Support for the temperature and time features of claim 18 is found in the specification, *e.g.*, at page 5, ll. 21-25. Claims 19-23 depend from claim 18 and are analogous to claims 6-10.

Claim 18 is neither anticipated by, nor obvious in view of, Stone. As discussed with respect to claim 1, Stone does not teach or suggest adding glucosamine to a beverage and then *subsequently heat pasteurizing* the glucosamine-containing beverage by heating the beverage to a pasteurization temperature and *maintaining the glucosamine-containing beverage at the pasteurization temperature* for a period of time. In contrast, Stone discloses heat pasteurizing the beverage before adding the cartilage solution and minimizing the residence time of the cartilage solution at elevated temperatures.

Thus, claim 18 is allowable over Stone. Claims 19-23 depend from claim 18 and are allowable for the same reasons as claim 18.

Conclusion

It is respectfully submitted that the present claims are in a condition for allowance. Should the Examiner have further questions or comments with respect to examination of this case, it is respectfully requested that the Examiner telephone the undersigned so that further examination of this application can be expedited.

Respectfully submitted,

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